THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2622 OF 2007

DATED 30.04.2007

BETWEEN

Dr.Mohammed Masihuddin Omar

… Petitioner

AND

The State of A.P., rep.by its Principal Secretary, Revenue Department, Secretariat, Hyderabad and others.

… Respondents

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2622 OF 2007

ORDER:

The petitioner is statedly a medical Doctor working as physician

i n New York in United States of America (USA). He alleges to be absolute owner and possessor of land admeasuring 12,331 square meters in survey Nos.120 and 121 situated at Road No.10, Banjara Hills, Shaikpet Village and Mandal, Hyderabad District. It is his case that when he came to India in 2003, he came to know that his mother filed declaration under Section 6(1) of Urban Land (Ceiling and Regulation) Act, 1976 (the Act, for brevity), declaring the above mentioned property as vacant land. After processing the same, a draft statement under Section 8(1) of the Act is issued in C.C.No.E2/5376/76, followed by a final statement and order under Section 8(4) read with 9 of the Act vide order, dated 03.11.2003. As a sequel to that, notification under Section 10(3) of the Act was issued and after issuing notice under Section 10(5) of the Act, possession was also taken. The petitioner contends that as he was away, he did not follow up the proceedings with second respondent. He further allege that under Section 21 of the Act, the land meant for construction of dwelling units is exempted from the provisions of the Act but the same was not considered. If the same was allowed, the land in question cannot be treated as excess vacant land. The petitioner alleges that by reason of the order, dated 03.11.2003, Mandal Revenue Officer (MRO) along with fifth respondent is trying to dispossess petitioner with the help of land grabbers. The petitioner further alleges that his General Power of Attorney (GPA) Mir Wajid Ali Kamil (deponent of the affidavit) filed an application under G.O.Ms.No.456, dated 29.07.2002 seeking regularization/ allotment of land admeasuring 11,331 square meters declared to be surplus but no orders were passed allotting the land. In the meanwhile, Government is allegedly considering the applications filed by third parties under G.O.Ms.No.455, dated 29.07.2002. Therefore, the petitioner filed the writ petition.

The prayer made by the petitioner reads as under.

> For the reasons stated in the accompanying affidavit, it is hereby prayed that his Hon'ble Court may be pleased to issue a writ, direction or order, more particularly one in the nature of Writ of Mandamus calling for the records of the 2nd respondent in C.C.No.E2/5376/76 including the application of the petitioner under 456 bearing No.E2/456/SA/13s/2006 along with enclosures and the applications filed by the 3rd party land grabbers under 455 in the declaration of the petitioner E2/5376/76 and set aside the orders of the 3rd respondent authority u/s.8(4), dt.3.11.2003, final statement u/s.9, notification u/s.10(1), declaration u/s.10(3) and a notice u/s.10(5) and alternatively direct the 1st respondent to pass orders for regularizing the excess extent of 11,331 square meters declared as excess in C.C.No.E2/5376/76 of the petitioner as the petitioner had already

deposited a huge sum of Rs.83,55,752/- vide D.D.Nos.450979, 450972, 450977, 450981, 450975, 450970, 450987, 450971 and 450980, dt.31.3.2006 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Before considering the submissions of learned counsel for petitioner, this Court is compelled to observe that a reading of the above prayer would show that minimum attention is not paid while filing the writ petition. When an order is referred, except mentioning orders as 455 and 456, the particulars are not given. One has to strain to understand what exact redressal the petitioner seeks. Prayers more than one are jumbled up in such a manner that it is not clearly known whether petitioner seeks a direction to set aside the final orders of the second respondent under Section 8(4) of the Act or whether petitioner seeks Government to consider and dispose of his application under G.O.Ms.No.456 or petitioner seeks a direction not to entertain the applications filed by third parties under G.O.Ms.No.455. Indeed, to a specific query about prayer, counsel for petitioner also not able to answer except making submissions which are incoherent and illogical. Except repeatedly contending that Government is helping land grabbers to knock away the property of petitioner, no argument of substance was made. This Court, therefore, observes that while seeking public law remedy, the way the prayer is sought and the way the grievance is made out are very important components, or else in a given case, though the redressal in public law remedy is only available remedy in law, if proper case is not made out within the four corners of public law, a petition is liable to be rejected. It is unfortunate that these basic tenets of public law have been given a go bye nay conveniently ignored by petitioner while approaching this Court invoking the extraordinary jurisdiction under Article 226 of Constitution of India. Whenever a writ petition is filed, the relief sought should be precise and the factual background leading to filing of writ petition should be logical, cohesive and comprehensive. The grounds urged in support of the writ petition should be specific without repetition and argumentative.

The petitioner is not a resident of India. He is resident of New Hartford, New York, USA. He files the writ petition through his G.P.A., assailing the order of Special Officer, dated 03.11.2003, after lapse of about three years. Secondly, the said order was passed on a declaration filed by the mother of petitioner on behalf petitioner herein. Second respondent passed orders declaring an extent of 11,331 square meters as surplus vacant land duly allowing an extent of 1,000 square meters as per Section 4(1)(b) of the Act. If petitioner is

aggrieved by the same, he ought to have filed an Appeal under Section 33 of the Act. He did not do so. Ultimately, petitioner submitted an application under G.O.Ms.No.456 requesting allotment of excess vacant land under Section 23(2) of the Act. It is not clearly known whether the same was submitted before the last date prescribed by the Government for submission of such applications. It is also not known whether the said application was submitted after issue of notification under Section 10(3) of the Act vesting the excess vacant land in the Government. Even assuming for a while that he did so, the remedy of petitioner is only to pursue the Government and also raise objections – if not already raised; with regard to other such applications filed by third parties. Further, allegedly the land is vested in the Government and petitioner has already approached the Government for allotment of land and hence writ petition challenging order of Special Officer under Section 8(4) of the Act is not maintainable.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

30.04.2007.
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